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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL HENRY, on behalf of
himself, all others similarly situated,
and the general public,

Plaintiff,

VS.

HOME DEPOT U.S.A., INC., a
Delaware corporation; and DOES 1-
50, inclusive.

Defendants.

Case No. C 14-04858 JST

[Assigned to the Honorable Jon S. Tigar
for All Purposes]

**STIPULATION AND {PROPOSED}
ORDER TO CONTINUE HEARING
DATE ON PLAINTIFF'S MOTION
FOR CLASS CERTIFICATION**

1 Plaintiff Michael Henry (“plaintiff”) and defendant Home Depot U.S.A., Inc.
2 (“defendant”) (collectively, the “Parties”), by and through their undersigned counsel of
3 record, stipulate and represent as follows:

4 1. On December 10, 2015, plaintiff filed a motion for class certification
5 (“Class Motion”) as to plaintiff’s unpaid overtime claim.

6 2. The hearing on the Class Motion was initially set for January 14, 2016 at
7 2:00 p.m. in Courtroom 9, with defendant’s opposition due December 24, 2015. In its
8 order entered December 16, 2015, the Court continued the hearing to January 14, 2016,
9 but did not change the original opposition and reply deadlines.

10 3. The overtime claim that is the subject of the Class Motion is the same
11 claim that is the subject of defendant’s pending motion for summary judgment. The
12 Parties agree that, in the interest of judicial economy and efficiency, defendant should
13 not be required to respond to the Class Motion until the Court has ruled on the summary
14 judgment motion. In addition, defendant’s counsel is taking time off through the
15 upcoming holidays and the first part of January, and has other business commitments in
16 the first half of January, and requested that the briefing schedule be adjusted to
17 accommodate counsel’s vacations and scheduling conflicts.

18 4. In the parties’ Joint Case Management Statement filed January 28, 2015
19 (Dkt. 19), the parties stipulated that defendant would have no less than 60 days to
20 oppose any class certification motion filed by plaintiff. That stipulation was
21 incorporated into the Court’s Scheduling Order entered February 12, 2015 (Dkt. 21),
22 which provides that defendant’s opposition would be due on May 2, 2016, 60 days after
23 the class certification motion deadline of March 2, 2016.

24 5. The parties have not previously requested a continuance of the hearing or
25 other dates related to the Class Motion.

26 NOW, THEREFORE, plaintiff and defendant hereby stipulate and agree as
27 follows:
28

1. That the hearing on the Class Motion, currently set for January 14, 2016, be taken off calendar and re-noticed after the Court rules on defendant's pending summary judgment motion.

2. That defendant's opposition to the Class Motion shall be due on January 28, 2016, or 30 days after the Court enters an order on the summary judgment motion, whichever is later.

3. After the Court rules on defendant's summary judgment motion, plaintiff will re- notice the Class Motion for February 18, 2016, or such later hearing date as will provide defendant with at least 30 days from the entry of the Court's order on the summary judgment motion to file its opposition to the Class Motion.

Dated: December 18, 2015 AKIN GUMP STRAUSS HAUER & FELD, LLP

By S/ Donna M. Mezias
Donna M. Mezias
Attorneys for defendant Home Depot U.S.A., Inc.

Dated: December 18, 2015

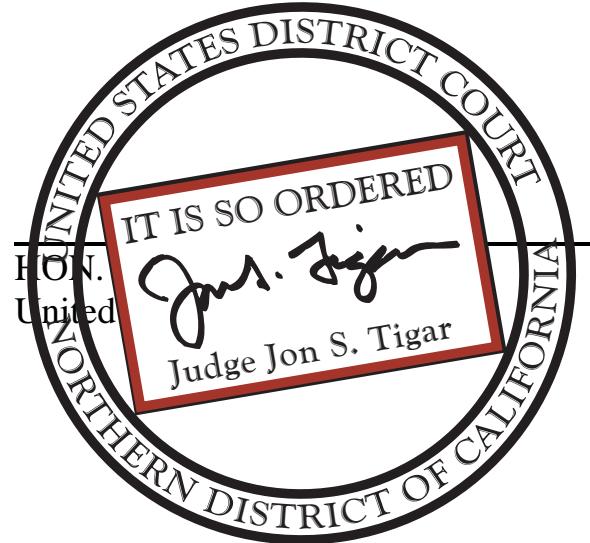
By/S/ Shaun Setareh
Shaun Setareh
Attorneys for plaintiff Michael Henry

1
2 **IT IS HEREBY ORDERED:**
3
4

5 1. The hearing on plaintiff's motion for class certification, currently
6 scheduled for 2:00 p.m. on January 28, 2016, shall be taken off calendar and re-noticed
7 by plaintiff after the Court rules on defendant's pending summary judgment motion.
8 The new hearing date shall be February 18, 2016, or such later date as will provide
9 defendant with at least 30 days from the entry of the Court's order on the summary
10 judgment motion to file its opposition to the Class Motion.

11 2. Defendant's opposition to the Class Motion shall be due 21 days prior to
12 the re-noticed hearing date. Plaintiff's reply shall be due ten days before the re-noticed
13 hearing date.

14 Dated: December 21, 2015



1 CERTIFICATE OF SERVICE
2

3 STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO
4

5 I am employed in the County of San Francisco, State of California. I am over the
6 age of 18 and not a party to the within action; my business address is: 580 California
7 Street, Suite 1500, San Francisco, California 94104. On December 18, 2015, I served
8 the foregoing document(s) described as: **STIPULATION AND [PROPOSED]**
9 **ORDER TO CONTINUE HEARING DATE ON PLAINTIFF'S MOTION FOR**
10 **CLASS CERTIFICATION**, on the interested party(ies) below, using the following
11 means:

12 **All parties identified for Notice of Electronic Filing
13 generated by the Court's CM/ECF system under the
14 referenced case caption and number**

15 BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court
16 order or an agreement of the parties to accept service by e-mail or electronic
17 transmission, I caused the document(s) to be sent to the respective e-mail address(es) of
18 the party(ies) as stated above.

19 (FEDERAL) I declare that I am employed in the office of a member of the bar of this
20 court at whose direction the service was made.

21 Executed on December 18, 2015, at San Francisco, California.
22

23 Jeremias V. Cordero
24 [Print Name of Person Executing Proof]

25 _____
26 [Signature]
27
28